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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR FRANKLIN COUNTY

GABRIEL PORTUGAL, BRANDON
PAUL MORALES, JOSE TRINIDAD
CORRAL, and LEAGUE OF UNITED
LATIN AMERICAN CITIZENS.

No. 21-250210-11

Plaintiffs,

PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT

v.

FRANKLIN COUNTY, a Washington
municipal entity, CLINT DIDIER,
RODNEY J. MULLEN, LOWELL B.
PECK, in their official capacities as
members of the Franklin County Board of
Commissioners,

Defendants.

INTRODUCTION

There are two central issues raised by this case. First, does Franklin County's method of electing county commissioners that provides for single-member district elections in party primaries but not at-large general elections, violate the Washington Voting Rights Act? Second, what is an appropriate district map that remedies the violation? There appears to be no dispute as to the first question; members of the Franklin County Commission and its counsel have conceded as much. There is no genuine issue of fact on this issue. The purpose of this motion is

1 to resolve whether Defendants remain committed to defending the hybrid at-large election
2 system currently in place.

3 According to the Washington Voting Rights Act, when a Plaintiff can show that
4 “elections in the political subdivision exhibit polarized voting; and members of a protected class
5 or classes do not have an equal opportunity to elect candidates of their choice as a result of the
6 dilution or abridgement of the rights of members of that protected class or classes,” “the court
7 may order appropriate remedies including... the imposition of a district-based election system.”
8 RCW 29A.92.040, 29A.92.110.
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10 The material facts demonstrate that elections for the Franklin County Board of
11 Commissioners (“County Commission”) exhibit racially polarized voting and Latino voters do
12 not have an equal opportunity to elect the candidates of their choice due to vote dilution. The
13 County Commission has historically been and remains controlled by White voters’ preferred
14 candidates and has been insufficiently responsive to issues of particular importance to Latino
15 residents in Franklin County. There are no Latino preferred candidates currently serving on the
16 Franklin County Board of Commissioners and there has never been a Latino elected to serve on
17 the Franklin County Board of Commissioners. According to the statute, the establishment of
18 those facts ends the inquiry.
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21 The evidence of a violation of the WVRA is so overwhelming that the Defendants have
22 made numerous statements to the effect that the current election system is indefensible. Yet, at
23 the same time, Defendants, in an end run around this Court, voted to create a committee to
24 redraw their voting districts.
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1 This motion intends to finally resolve the issue so that remaining litigation can focus on
2 the issues actually in dispute.¹ This Court should grant summary judgment and order Defendants
3 to implement a single-member district-based election system, and then, as the statute dictates,
4 work with Plaintiffs to develop an appropriate remedial map and submit any proposed map or
5 plan to this Court for approval.
6

7 STATEMENT OF FACTS

8 I. Parties

9 Plaintiffs Gabriel Portugal, Brandon Paul Morales, and Jose Trinidad Corral are Latino
10 registered voters who reside in Franklin County. *See* Ex. 1 (Defendant's Answer to Complaint
11 for Injunctive Relief Under the Washington Voting Rights Act "Def. Answer") ¶ 2.1-4. Plaintiff
12 League of United Latin American Citizens (LULAC) is a non-profit membership organization,
13 the largest and oldest national Latino civil rights organization in the United States. LULAC's
14 presence in the State of Washington includes three membership chapters within the state and one
15 in Franklin County. LULAC participates in civic engagement activities, such as voter education,
16 voter registration, and voter turnout efforts throughout Washington.
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19 Defendant Franklin County ("the County") is a Washington municipal corporation and a
20 political subdivision within the meaning of and subject to the requirements of the WVRA. *See*
21 RCW 29A.92.010. *Id.* at ¶ 2.8. The County operates a system in which candidates for
22 Commissioner are first voted on through a district-based primary and then elected through a
23 County-wide, at-large election. *Id.* at ¶ 4.4. Defendants Clint Didier, Rodney J. Mullen, and
24 Lowell B. Peck (collectively "the Commissioners") are current members of the Commission. *Id.*
25 at ¶ 2.9. The Commission has the authority to alter the County's electoral system to correct a
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28 ¹ The Washington Voting rights Act requires that the trial court set trial to be held no later than one year after the filing of a complaint. RCW 29A.92.100.

1 WVRA violation, and it is responsible for drawing and adopting the district maps for elections in
2 Franklin County.

3 **II. Franklin County Demographics**

4 Over the past twenty years, Franklin County's Latino population has grown dramatically,
5 fueling an expansion of the County's Latino citizen voting age population (CVAP). *See Ex. 5*
6 *(News Media Reports of Franklin County Latino Population Growth)*. According to the Census²
7 Bureau's 2019 American Community Survey Five-Year Estimates ("ACS")³, the County has a
8 total population of 92,009 and a Latino/a population of 48,843, which comprises more than half
9 (53.1 percent) of the total county population.⁴ *See Ex. 2 (2019 ACS Five Year Estimates of*
10 *Franklin County Latino Population)*. According to the 2019 ACS 5-201 Year Estimates, Latino
11 citizens are 33.1% of Franklin County's CVAP. *See Ex. 3. (2019 ACS Five Year Estimate of*
12 *Franklin County Latino CVAP)*. Latino residents of Franklin County are largely geographically
13 concentrated in the Cities of Pasco, Mesa, and Connell. The Latino CVAP for these cities is
14 37.2%, 35.5%, and 24.1% respectively. *See Ex. 4 (2019 ACS Five Year Estimate of Pasco,*
15 *Mesa, Connell Latino CVAP)*. The below map demonstrates the geographic distribution of
16 Latinos in Franklin County. *See Ex. 6 ("Declaration of Michael Rios") at ¶ 53.*
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25 ² Washington Courts have routinely taken judicial notice of census data see e.g. *State v. Smith* 149 Wash. 173 270 P.
26 306 at 174; "The federal census, of which the court takes judicial notice, *Zink v. City of Mesa* 4 Wash. App. 2d 112,
419 P.3d 847 2018 at footnote 10.

27 ³ ACS statistics are judicially noticeable as they are capable of accurate and ready determination by resort to sources
whose accuracy cannot reasonably be questioned. Washington Rules of Evidence 201(b).

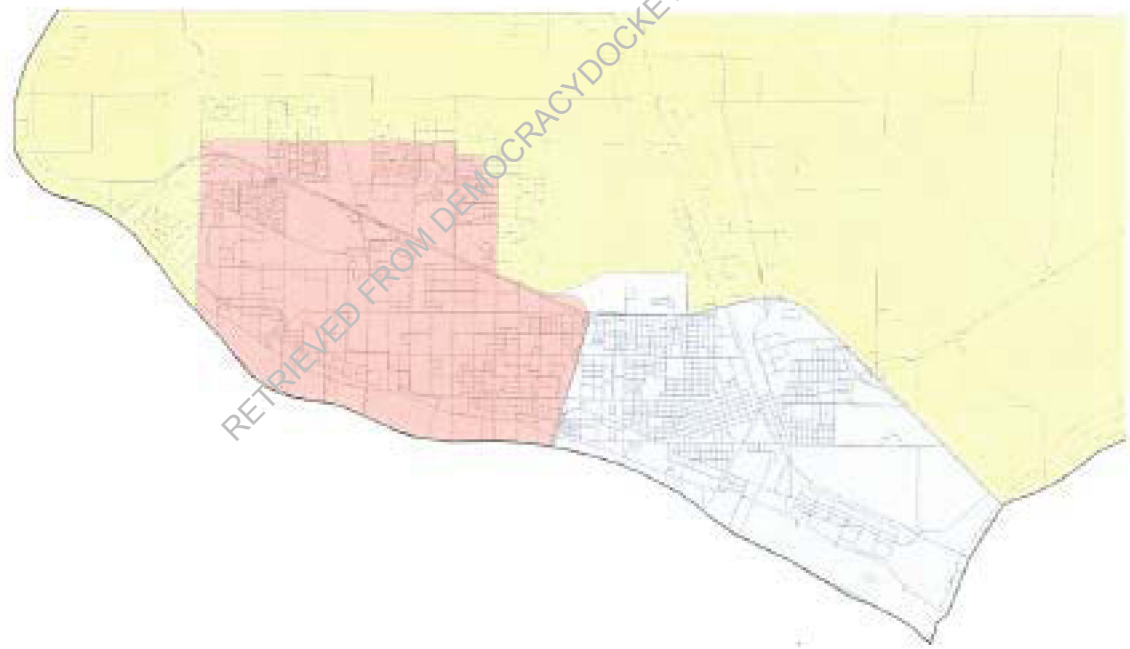
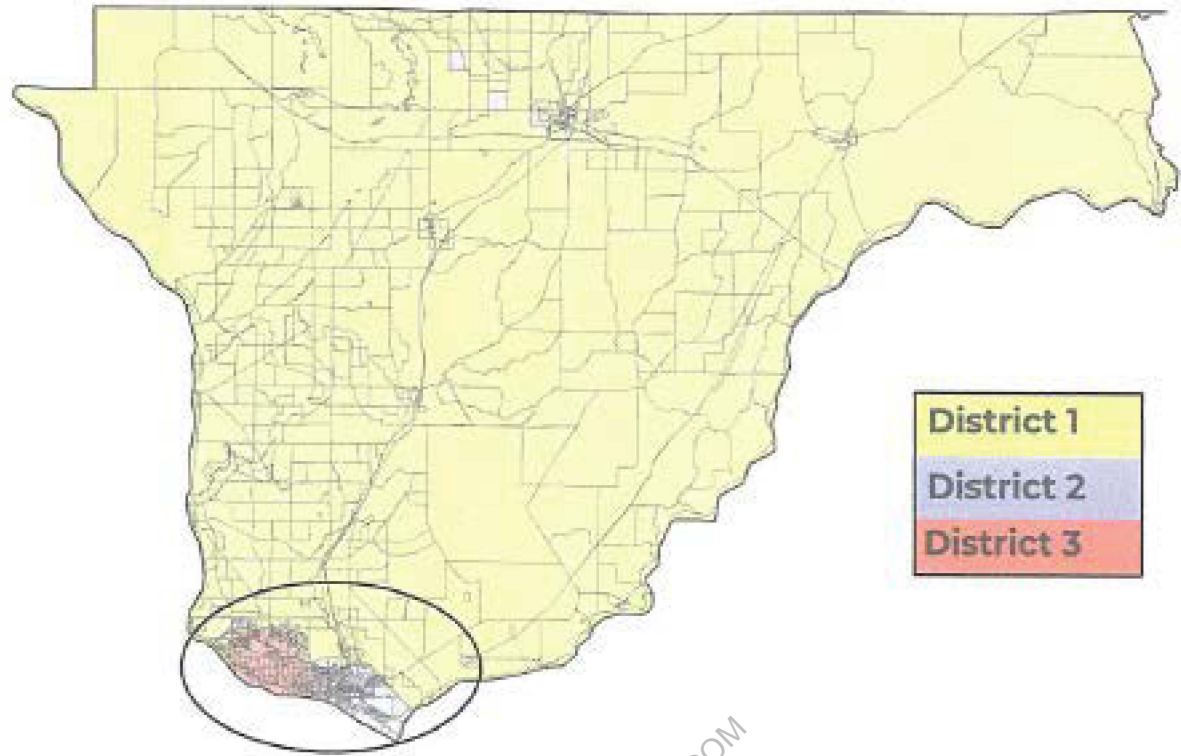
28 ⁴ *Hispanic or Latino Origin by Race, Franklin County, Washington*, UNITED STATES CENSUS BUREAU (2019),
<https://data.census.gov/cedsci/table?q=franklin%20county%20washington%20hispanic&tid=ACSDT1Y2019.B03002&hidePreview=false>.



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The at-large election scheme, coupled with a district map utilized only in the primary that dilutes the votes of Pasco residents by combining them with the votes of rural residents, operates to prevent Latino citizens from electing even one candidate of their choice to the county commission. “When a clear candidate of choice emerges for Latino voters, that candidate is never elected. Specifically, Latino voters have been unable to elect a candidate of their choice under the county’s at-large election scheme.” *Id.* at ¶ 10. Plaintiffs’ proposed single-member district map remedy for use in both primary and general elections, as detailed below, “includes more compact and contiguous districts that more appropriately group rural and urban residents by their respective communities.” *Id.* at ¶ 55.

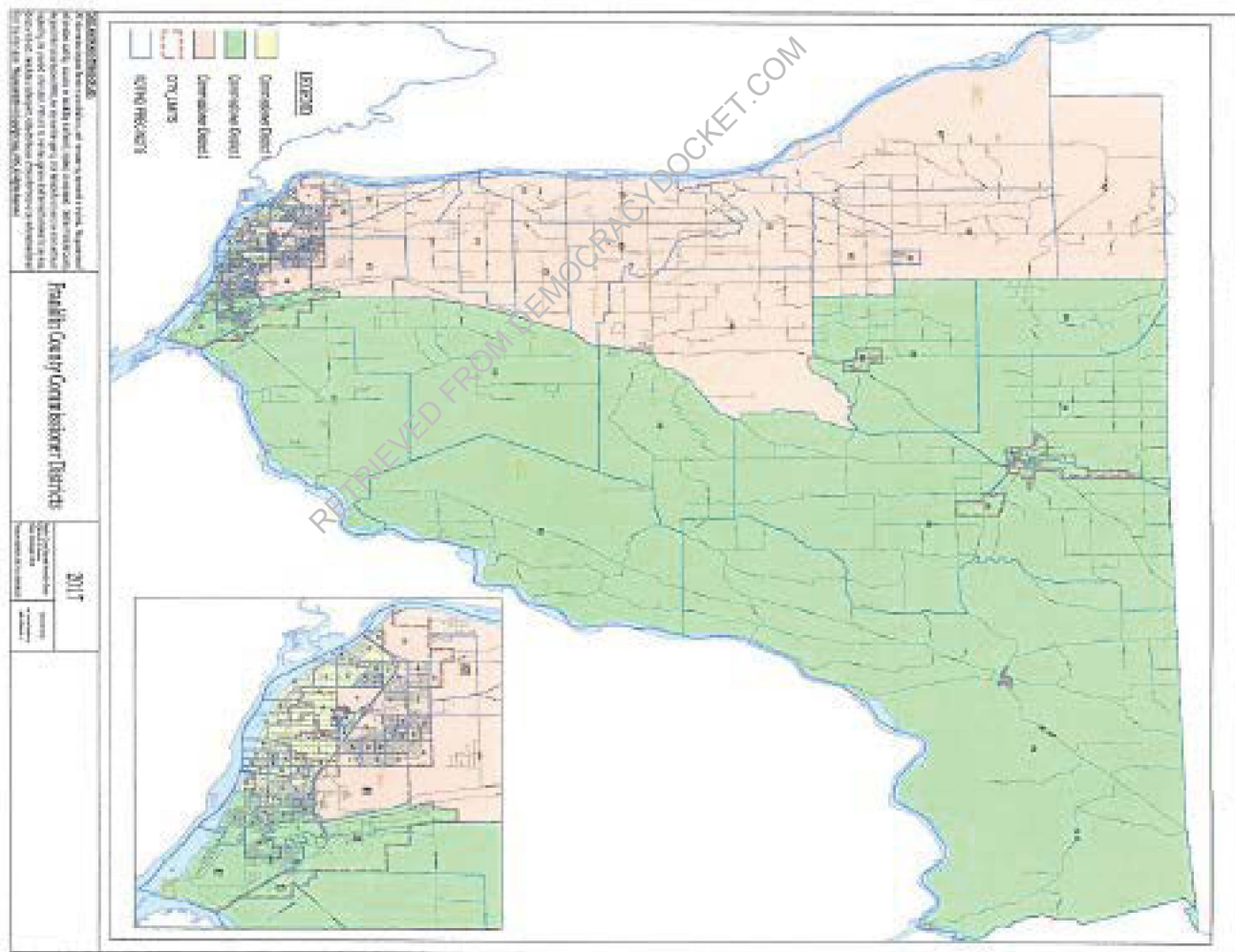
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III. Franklin County Board of Commissioner Elections

The County Commission is the governing institution of Franklin County and is composed of three Commissioners, each of whom represent one of three geographic districts. See Ex. 1

1 (Def. Answer) at ¶ 4.1. Franklin County currently uses a hybrid voting system which includes
2 district-based primary elections and at-large general elections. *Id.* at ¶ 4.2. Primary candidates
3 are selected by voters within the district in which they reside. *Id.* at ¶ 4.3. During the general
4 election, voters from all districts in the County vote for and elect the commissioners. *Id.* at ¶ 4.4.
5 County commissioners serve four-year staggered terms, with elections held every two years. *Id.*
6 at ¶ 4.5. Under the staggered schedule, Districts 1 and 2 vote for commissioners during
7 presidential election years, and District 3 votes for commissioner during midterm elections.
8 Below is the current Franklin County Commission District Map. Ex. 16.
9



25 Since 2008, no Latino-preferred candidate has been elected to the County Commission,
26 even though Latino-preferred candidates have run. There are currently no Latino-preferred
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1 candidates currently serving on the Franklin County Board of Commissioner. There has never
2 been a Latino elected to serve on the Franklin County Board of Commissioners.

3 **IV. Procedural History**

4 On October 12, 2020, Plaintiffs provided notice to Defendants that Franklin County's at-
5 large system for electing members of the County Board violates the WVRA. *See Ex. 7*
6 (Plaintiffs' Notice Letter of a Violation the Washington Voting Rights Act). Plaintiffs received
7 communications from Defendant's attorney on October 16, 2020, informing Plaintiffs to expect a
8 response to the notice letter within one week of the letter's receipt. *See Ex. 8* (Defendants'
9 Response to Notice Letter).

10 Defendants did not provide a response within one week. Instead, Defendants waited 145
11 days to respond to Plaintiffs' notice letter, nearly the entire duration of the 180 day-notice period.
12 On March 10, 2021, Plaintiffs received informal communications from Franklin County's
13 attorney, Mr. John Safarli. *See Ex. 9* (Electronic Mail from Defendants' Legal Representative,
14 March 10). In these communications, Mr. Safarli inquired about single-member district plans
15 that Plaintiffs supported. *Id.* On March 24, 2021, Plaintiffs responded to such communications
16 with a formal letter. *See Ex. 10* (Plaintiffs' Response to Defendants' Legal Representative March
17 10 Correspondence). Plaintiffs further provided notice that they planned to challenge the
18 County's at-large electoral system unless the County adopted an appropriate remedy. *Id.*

19 During the six-month notice period prior to filing suit, Plaintiffs attempted in good faith
20 to work with the Defendants and remedy the WVRA violation. These good faith actions include
21 providing Defendants with the data and analyses cited in Plaintiffs' notice letter. *See Ex. 11*
22 (Plaintiffs' Data and Analyses Provided to Defendants). Defendants declined to take actions
23 during the notice period in a manner that would remedy the WVRA violation. Furthermore,
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1 without seeking input from or informing Plaintiffs, Defendants discussed redistricting in County
2 Commission meetings and in closed exclusive sessions that were inaccessible to Plaintiffs. See
3 Ex. 12 (Franklin County Commissioner Meeting Minutes February 4, 2020) at 26:59.

4
5 During a public Franklin County Commissioner meeting on January 26, 2021, Defendant
6 Commissioner Peck publicly conceded that Franklin County's election scheme violates the
7 WVRA.⁵ See Ex. 13 (Franklin County Commissioner Meeting Minutes, January 26, 2021) at
8 50:40. Offering his words "on the record," Defendant Commissioner Peck admitted that "the
9 statutes [the WVRA] say that our districts should be as compact as possible and that they should
10 be as equally divided as possible. Ours are neither, and they haven't been for years." *Id.* at 50:40.
11 Defendant Peck predicted a remedy of single-member districts, stating that "district-only
12 elections for our County for Commissioners is going to be a requirement. I don't see us escaping
13 that." *Id.* at 52:30. Defendant Peck summarized his thoughts the following way: "the Washington
14 Voting Rights Act is coming, and if we [the Commission] don't get our districts in line, they [the
15 Courts] would do it for us." *Id.* at 49:00.

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18 Since Plaintiffs notified the County of its WVRA violation, more than 180-days have
19 elapsed. After the 180-day notice period, Franklin County's attorney communicated with
20 Plaintiffs. In this April 13, 2021, communication, Defendants referenced that they would
21 "seriously explore adopting a districting plan with one majority-minority district." See Ex. 14
22 (Electronic Mail from Defendant's Legal Representative, April 13, 2021). While Defendants'
23 attorney claimed to offer this concession in order induce Plaintiffs to decline to file suit,
24 Defendants waited until after the statutory notice period had lapsed to communicate their support
25 for the creation of a majority-minority district with Plaintiffs and still have not made such an
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28 ⁵ Franklin County Board of Commissioners, *Franklin County WA Commissioners Meeting 01/26/2021*, YOUTUBE
(Jan. 26, 2020), <https://www.youtube.com/watch?v=HMFOxpbJKS4>.

1 offer in a legally binding manner. *Id.* In this same communication, Defendants’ attorney admitted
2 that a court order would be necessary to sanction the redistricting process, thus conceding the
3 need for redrawing WVRA-compliant districts. *Id.* These concessions from Defendant’s legal
4 representative in order to promote “common ground” were offered just weeks before the Board
5 voted on May 4, 2021, to form their Redistricting Commission without consulting Plaintiffs. *See*
6 *Ex. 15* (Franklin County Board of Commissioners Meeting Minutes May 4, 2021). Without a
7 binding commitment from the Defendant to comply with the WVRA, Plaintiffs filed suit in this
8 court.
9

10 Regarding the formation of a redistricting commission, Defendant Peck noted that such a
11 commission is “not currently authorized in the state statute.... and is not a viable option.” *Ex. 13*
12 *at 49:33*. Defendant Peck said the formation of such a Commission had been “taken off the table
13 by Board inaction,” *Id.* *at 49:48*, and rightly chronicled how “[the Franklin County
14 Commissioners] didn’t resolve it [the lawsuit] by January 15. We were given 180 days from back
15 in October when they send us their letter and January 15 was a key date for resolution.” *Id.* *at*
16 *49:55*. Defendant Peck then stated that “this matter is going to be decided in the Court if we
17 don’t come to terms with the people alleging an unfair practice.” *Id.* *at 50:17*. Notably, within the
18 180-days’ notice period and since, Defendants have not obtained a court order stating that it has
19 adopted a remedy that complies with RCW 29A.92.020.
20

21 Even after the lawsuit was filed, Defendants have been less than diligent in defending the
22 at-large system challenged by Plaintiffs. For example, Defendants did not respond at all to
23 Plaintiffs’ discovery requests that were served on May 28, 2021. Plaintiffs e-served and also
24 mailed the discovery request to Defendants’ counsel and have not received a response as of the
25 date of this filing.
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LEGAL STANDARDS

I. Summary Judgment

“Summary judgment is properly granted when the pleadings, affidavits, depositions, and admissions on file demonstrate there is no genuine issue of material fact.” *Folsom v. Burger King*, 135 Wash.2d 658, 663 958 P.2d 301 (1998). “The court should grant the motion only if, from all evidence, reasonable persons could reach but one conclusion.” *Citizens for Responsible Wildlife Mgmt. v. State*, 149 Wn.2d 622, 630-31, 71 P.3d 644 (2003).

II. Washington Voting Rights Act

The WVRA bars certain political subdivisions, including counties, from maintaining an electoral system “that impairs the ability of members of a protected class . . . to have an equal opportunity to elect candidates of their choice as a result of the dilution or abridgment of the rights” of such voters. RCW 29A.92.020, 010(4). Latinos are a protected class under the WVRA. See RCW 29A.92.010(5).

The WVRA provides a streamlined test that is specifically tailored to local conditions to determine whether electoral schemes deny minority voters an opportunity to elect their preferred candidates. RCW 29A.92.030(2). A violation of the WVRA is established if two elements are met: “(a) Elections in the political subdivision exhibit polarized voting; and (b) Members of a protected class . . . do not have an equal opportunity to elect candidates of their choice as a result of the dilution or abridgement of [their rights].” RCW 29A.92.030(1). When there is a violation of the WVRA, “the court may order appropriate remedies including... the imposition of a district-based election system” RCW 29A.92.040, 29A.92.110. The WVRA requires that the proposed districts be approved by the court prior to their implementation. RCW 29A.92.110.

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ARGUMENT

Plaintiffs' evidence establishes both elements of a WVRA claim: (a) elections in Franklin County are racially polarized, and (b) the County Board electoral system dilutes Latino voting power such that Latinos are denied equal opportunity to elect their preferred candidates. As such, Plaintiffs are entitled to summary judgment on the question of whether Franklin County is required to hold elections under a single-member district map.

I. Elections in Franklin County Exhibit Racial Polarization in Violation of the WVRA

To establish a violation of the WVRA, Plaintiffs must demonstrate that elections in Franklin County exhibit polarized voting. RCW 29A.92.030(1)(a). Polarized voting means "voting in which there is a difference, as defined in case law regarding enforcement of the federal voting rights act, 52 U.S.C. Section 10301 *et seq.*, in the choice of candidates or other electoral choices that are preferred by voters in a protected class, . . . and electoral choices that are preferred by voters in the rest of the electorate." RCW 29A.92.010(3). Polarized voting occurs when members of different racial or ethnic groups prefer different candidates than other racial or ethnic groups. Under the federal Voting Rights Act ("VRA"), racial polarization in voting is actionable when members of the protected class vote cohesively for the same candidates while the majority bloc routinely votes against the preferred candidate of the protected class.

To determine whether elections in Franklin County exhibit polarization in voting preferences between Latino and white voters, Plaintiffs' expert Michael Rios analyzed more than nine election contests from 2008 to 2020 using Ecological Inference. Ex. 6 at ¶ 9, 20. He relied on precinct-level election results for Franklin County, Washington, as well as census and voter file demographics merged to the precinct. *Id.* at ¶ 7. After analyzing election contests from 2008 to 2020, Mr. Rios found that the difference in candidate preference between Latino and white

1 voting precincts is large and statistically significant. *Id.* at ¶ 11. In Franklin County, “White, non-
2 Hispanic voters and Latino voters demonstrate consistent patterns of voting for different
3 candidates. Candidates who win a majority of the vote in high-density Latino voting precincts
4 receive very low support in high-density white precincts.” *Id.* at ¶ 9. This split is particularly
5 indicative of racially polarized voting: candidates who win the majority of the vote in high-
6 density Latino voting precincts receive low or very low support in high-density white precincts.
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8 A series of recent County Commissioner elections from 2008 to 2020 strongly
9 demonstrate racially polarized voting in Franklin County. *Id.* at ¶11. The 2020 election for
10 Franklin County Commissioner in District 2 exhibited strong evidence of racially polarized
11 voting. *Id.* at ¶ 12. In 2020, Ana Ruiz Peralta ran in District 2 during the primary, won, and
12 advanced to the at-large general election where she then lost. *Id.* Within District 2, Peralta was
13 the preferred candidate in high-density Latino precincts and earned an extremely high percentage
14 of the Latino vote share -- as high as 75 percent in one precinct -- in addition to winning the
15 majority of the vote share in other high-density Latino districts. *Id.* Peralta was the minority-
16 preferred candidate with a near 2 to 1 vote share lead. *Id.* at ¶ 14. The differences in support for
17 Peralta between Latino and White precincts was drastic; in areas with majority non-Latino
18 voters, Peralta was out-voted by a 3 to 1 margin. *Id.* The stark difference in voting patterns by
19 Latinos and non-Latinos during the 2020 Franklin County General Election race constitutes
20 racially polarized voting. *Id.* at ¶ 13.
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23 According to Mr. Rios, the clear opposition in voting results of high-density Latino
24 precincts and those of high-density white precincts has occurred over time in Franklin County.
25 *Id.* at ¶ 15. Racially polarized voting was also present in the 2018, 2012, and 2008 elections in
26 Franklin County. *Id.* at ¶ 16. In 2012, Al Yenney was the Latino preferred candidate, won a
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1 majority of the vote in Latino precincts, but lost badly in precincts with substantial non-Latino
2 populations and ultimately lost the general election. *Id.* at ¶ 16. In 2008, “Neva Corkrum, the
3 Latino preferred candidate, lost the countywide election in November but won a clear majority of
4 the vote in high-density Latino voting precincts.” *Id.* Based on Mr. Rios analysis and on the
5 election results themselves, it is clear that elections in Franklin County exhibit racially polarized
6 voting. *Id.* at ¶ 8 (“Elections in Franklin County exhibit racially polarized voting.”).

8
9 **II. Latino Voters Do Not Have an Equal Opportunity to Elect Candidates of Their
Choice as a Result of the Dilution of Their Rights.**

10 The second element Plaintiffs must prove is that the County’s at-large system for electing
11 County Commissioners dilutes the voting rights of Latinos and thus deprives them of the equal
12 opportunity to elect candidates of their choice. See RCW 29A.92.020. The WVRA instructs that
13 vote dilution “be assessed pragmatically, based on local conditions.” RCW 29A.92.030(2). A
14 showing of proof of discriminatory intent is not required. RCW 29A.92.030(5). The evidence
15 from Mr. Rios, as well as the other attached exhibits, establish that the at-large election scheme
16 violates the WVRA. The presence of racially polarized voting during Franklin County
17 Commissioner races combined with the use of the at-large system results in Latinos, who are not
18 a majority in the entire county, being blocked from having an equal opportunity to elect
19 candidates of their choice. Lack of opportunity to elect and racially polarized voting is all the
20 statute requires be shown. Nevertheless, as the following demonstrates, the electoral system fails
21 even the more rigorous standard required under the federal Voting Rights Act.⁶ A political
22 subdivision exhibits vote dilution in violation of the federal VRA when (1) the minority voting
23 group is large and sufficiently compact to constitute a majority-minority district, (2) the minority
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28 ⁶ Plaintiffs strenuously deny that they need to prove the elements of the federal VRA. Plaintiffs do so here to show that even if these elements did apply, there is no genuine issue of material fact.

1 vote is cohesive, and (3) there is bloc voting thus allowing White majority voters to defeat the
2 minority-preferred candidates.

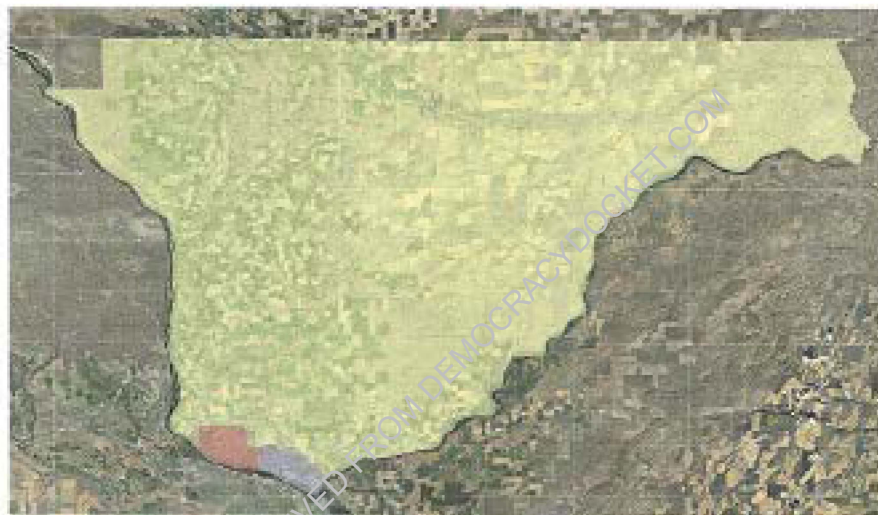
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4 **A. The Franklin County Latino Community is Sufficiently Compact to Constitute a
5 Majority-Minority District but is Diluted Under the Current Election Scheme**

6 The Franklin County Latino community is sufficiently compact to constitute a majority-
7 minority district, but has not been able to elect a candidate of its choice to the Franklin County
8 Commission. Within Franklin County, the Latino community is concentrated in three cities
9 within the county: Pasco, Mesa, and Connell. The Latino CVAP for these cities is 37.2%, 35.5%,
10 and 24.1% respectively. *See* Ex. 4.

11
12 Despite the large number of Latino voters and their compact distribution in Franklin
13 County, Franklin County's present districts used in primary elections cracks the Latino voting
14 population between three districts. While much of the Latino population is centered in and
15 around the City of Pasco, Pasco residents are divided across Franklin County's three districts.
16 *See* Ex. 16 (Current Franklin County Washington Commissioner Map). District 1 is centered
17 within the City of Pasco, but Districts 2 and 3 also include areas within the City of Pasco. *Id.* *See*
18 *also* Ex. 6 at ¶ 54 ("The City of Pasco, which is mostly populated by Latinos, is divided between
19 all three districts."). Defendant Commissioner Peck noted in a February 4, 2020 commission
20 meeting that, "homogenous" East Pasco, "the predominantly Latino east Pasco," has historically
21 been, "carved up into pieces to make the other districts balanced."⁷ *See* Ex. 12 (Franklin County
22 Commissioner Meeting Minutes February 4, 2020) at 40:07. Dividing the compact Latino
23 community such that it is split into three different districts undermines the ability of voters to
24 unify behind a candidate of choice in primary elections. Plaintiffs' expert Mr. Rios opined that
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1 the “it is clear and evident that the Latino population in Franklin County is large and
2 geographically compact such that it can constitute a majority of the citizen voting age population
3 in a district.” Ex. 6. ¶ 49.
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5 Plaintiffs, in response to Defendants’ inquiries during the notice period, have shown that
6 a single member district can be drawn that give the Latino Community the opportunity to elect a
7 candidate of choice:
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District	Hispanic/Latino (CVAP) Percent	Hispanic/Latino (CVAP)	Population (CVAP)	Hispanic/Latino (Total)	Population (Total)
1	23.02%	3828	16626	12252	29145
2	59.59%	7027	11793	26047	31925
3	22.31%	4028	18057	9429	29139

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24 See Ex. 11. The above map above has three districts, with District 2 encompassing
25 “homogenous” East Pasco, “the predominantly Latino east Pasco.” See Ex. 12. Both the map and
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27 ⁷Franklin County Board of Commissioners, *Commissioners Meeting*, AVCAPTUREALL (Feb. 4, 2020),
28 <https://media.avcaptureall.com/session.html?sessionid=d2879ada-264d-4035-8d5b-18aeb8501561&prefilter=863,6019>.

1 table above were provided to Defendants and demonstrate that the Latino population of Franklin
2 are geographically compact to constitute a majority-minority district, with the Latino CVAP in
3 District 2 totaling 59.59%.

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5 **B. The Latino Community Is Cohesive and Has Different Political Preferences Than**
6 **the White Majority Voting Population, Contributing to a Finding of Vote**
7 **Dilution under the WVRA.**

8 Latino voters in Franklin County are politically cohesive and consistently vote as a bloc
9 for their shared candidates of choice. Ex. 6 at ¶ 10. Election analysis of the 2020, 2018, 2012,
10 and 2008 elections by Mr. Rios demonstrates that the Latino community in Franklin County is
11 cohesive and votes as a bloc, coalescing around candidates of their choice. Mr. Rios's figures
12 included in Exhibit 6 graph the remarkable cohesion with which Franklin County Latino
13 residents vote. In the 2020 General Election, "Latino voters strongly preferred Ruiz Peralta by a
14 margin 73.9%, compared to Mullen at 25.6%." Ex. 6 at ¶ 23. In the 2018 General Election,
15 "Latino voters strongly preferred Roach over Didier by a 3-1 vote margin." Ex. 6 at ¶ 32.
16 Additionally, in examining non-Franklin County elections, Mr. Rios found that Latinos in
17 Franklin County are cohesive in how they vote. For example, Mr. Rios examined the 2018
18 General Election Washington Initiative 940, and found that "Latino voters voted in support of
19 the initiative by an 82.3% margin." *Id.* at ¶ 35. It is clear that high-density Latino precincts
20 within Franklin County vote extremely similarly, demonstrating their coherence by supporting
21 the same candidates and voting cohesively on the same measures. The at-large election scheme
22 dilutes the cohesive Latino vote throughout the County, thus preventing the election of the
23 Latino-preferred candidate.
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27 **C. The White Majority Voting Population Votes Sufficiently as a Bloc to Defeat**
28 **Latino Voters' Preferred Candidate, Contributing to a Finding of Vote Dilution**
under the WVRA.

1 The white population in Franklin County consistently votes as a bloc to prevent Latino
2 voters from electing their preferred candidates. Mr. Rios found in his analysis of Franklin County
3 elections that “White voters frequently vote as a bloc *against* Latino preferred candidates, and
4 there are not enough crossover White votes to account for the different voting preferences
5 between the Latino and White populations,” Ex. 6 ¶ 10, resulting in Latino preferred candidates
6 not being elected. During the 2020 General Election, Latino-preferred candidate for County
7 Commission “Peralta lost the vote in majority-white voting precincts, such as Pct 100, where
8 only 8% voted for Peralta, Pct 101 (9% voted for Peralta), Pct 096 (10%), Pct 095 (13%), and Pct
9 092 (17%)” and ultimately lost the race, despite having high support in Latino majority precincts.
10
11 *Id.* at ¶ 13. Mr. Rios also found that, “the precinct analysis of voter trends reveals that Latino-
12 preferred candidates are losing county elections because the at-large election system dilutes the
13 minority vote. The same pattern of racially polarized voting has emerged across elections in
14 Franklin County for other local, legislative, and statewide offices.” *Id.* at ¶ 17; *See also Id.* at ¶
15 21-48.
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18 The lack of successful Latino-preferred candidates is not explained by the lack of such
19 candidates seeking office. “Since 2008, at least five Latino-preferred candidates have run for
20 positions on the Franklin County Commission. None of these candidates were ultimately
21 elected.” *Id.* at ¶ 13. This is “because Latino voters do not constitute a majority countywide,
22 White voters frequently vote as a bloc *against* Latino preferred candidates, and there are not
23 enough crossover White votes to account for the different voting preferences between the Latino
24 and White populations.” *Id.* at ¶ 10. It is clear that the Latino population is being denied “an
25 equal opportunity to elect candidates of their choice.” RCW 16 29A.92.030(1)(b).
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CONCLUSION

Franklin County exhibits racially polarized voting and vote dilution such that Latino voters do not have an equal opportunity to elect candidates of their choice. Therefore, Franklin County's at-large election system violates the Washington Voting Rights Act. There are no issues of material fact that preclude an order for summary judgement, and at least one of the Defendants has themselves admitted the present districting scheme stands in violation of the WVRA. See Ex. 13 (Franklin County Commissioner Meeting Minutes January 26, 2021). For the foregoing reasons, Plaintiffs' Motion for Summary Judgment should be granted and the Court should institute single member districts as the appropriate remedy under WVRA, RCW 29A.92.110.

Respectfully submitted this 21st day of July, 2021.

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CERTIFICATE OF TRANSMITTAL

The undersigned hereby certifies and declares under penalty of perjury under the laws of the state of Washington that on this date, they caused a copy of this document to be transmitted or sent to the attorney(s) of record listed below as follows:

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